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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,962	07/14/2003	Alon Atsmon	36442	6417
67801 7590 03/18/2009 MARTIN D. MOYNIHAN d/b/a PRTSI, INC. P.O. BOX 16446 ARLINGTON, VA 22215				
EXAMINER				
DAO, MINH D				
ART UNIT		PAPER NUMBER		
2618				
MAIL DATE		DELIVERY MODE		
03/18/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/618,962

Applicant(s)

ATSMON ET AL.

Examiner

MINH D. DAO

Art Unit

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/04/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-42 and 48-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-42 and 48-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 08/01/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Regarding claims 24, 41, 48, 51 and 56, Applicant's arguments filed 12/04/08 have been fully considered but they are not persuasive. Applicant argues that none of the cited references teaches "a portable device including a body that has a thickness less than 0.8 mm and a switch and an acoustic reception unit/electronics". Examiner respectfully disagrees. Examiner stated in the previous that:

Fajkowski teaches a portable device, comprising: a device body that has a thickness of 0.8 mm and a switch; memory for holding device information; a processor for processing signals to determine instructions to be carried out (see citations in rejection of claim 24 below);

Suzuki teaches a formed plastic card, containing a magnetic strip, maintains a relatively thin total thickness (approximately 0.7 to 0.8 mm) (see citation in rejection of claim 24 below).

and Ito teaches "reception electronics for receiving wireless signals, said reception electronics comprising an acoustic reception unit" (see citation in rejection of claim 24 below).

Therefore, once combined, the mentioned teachings of Fajkowski, Suzuki and Ito arrive at the limitations of the claims. In addition (and in response to Applicant's arguments

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against references Kim and Logan that they do not teach "a portable device with a thickness of less than 0.8 mm", applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to Applicant's argument that Kim's "receiving audio file" is not the same as "receiving acoustics signal" of the present invention. Examiner disagrees. It is well known in the art of radio communication that the term "audio" is referred to "voice, music" or any kind of signal that would be heard by human.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 56 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The newly added limitation "reception electronics are configured for extracting broadcast information from the acoustic signals, and wherein

said processor is configured for processing information extracted by said reception electronics" is not found in the original specifications of the present application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 24-34, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fajkowski (US 5,905,246) in view of Suzuki et al. (US 4,479,995) and further in view of Ito (US 6,990,334).

Regarding claim 24, Fajkowski teaches a portable device, comprising: a device body that has a switch (see figs. 2-5; col. 13, line 37 to col. 14, line 54. In this case, the Transfer key 45 reads on the switch of the present invention. In addition, coupon card of Fajkowski has a thickness of a conventional credit card.); memory for holding device information; a processor for processing instructions and computing data (see fig. 5, col. 3, line 50 to col. 4, line 16); and reception electronics for receiving wireless signals (see fig. 5, receiver 15).

However, Fajkowski does not mention that the portable coupon card, having a thickness of a conventional credit card, has a thickness less than 0.8 mm. Suzuki, in an analogous art, teaches a formed plastic card, containing a magnetic strip, maintains a relatively thin total thickness (approximately 0.7 to 0.8 mm) that can be used as credit cards equipped with magnetic stripes and high optical transmission density which is required for positional recognition of the card (see abstract; figs. 1-3; col. 2, lines 25-42). Therefore, it would have been obvious to one of ordinary skilled in the art at the time of the in invention was made to provide the above teaching of Suzuki to Fajkowski for the purpose of obtaining better positional recognition of the card due to high optical transmission density as taught by Suzuki.

Still regarding claim 24, Fajkowski and Suzuki do not mention that the reception electronics comprising an acoustic reception unit. Ito, in an analogous art, teaches a wireless acoustic device capable of wirelessly receiving music from a server, transforming the musical data so that it would sound better, storing and recording the received music in its memory (see Summary of invention; figs. 1,2, and 14; col. 18, lines 1-45. Also see entire document for clarification.). It would have been obvious to one of ordinary skilled in the art at the time of the in invention was made to provide the above teaching of Ito to Fajkowski and Suzuki for the purpose of improving the output of the music when replay it.

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Regarding claim 25, the combination of Fajkowski, Suzuki and Ito teaches the reception electronics includes decoder electronics for extracting broadcast information from the wireless signals (see Fajkowski, col. 9, lines 3-39).

Regarding claim 26, the combination of Fajkowski, Suzuki and Ito teaches that the processor stores broadcast information in memory (see Fajkowski, col. 3, line 50 to col. 4, line 16).

Regarding claim 27, the combination of Fajkowski, Suzuki and Ito teaches the wireless signals are received from consumer electronics (see Fajkowski, col. 13, line 37 to col. 14, line 54).

Regarding claim 28, the combination of Fajkowski, Suzuki and Ito teaches a display on the device body for displaying alphanumeric characters (see Fajkowski, fig. 2, item 3).

Regarding claim 29, the combination of Fajkowski, Suzuki and Ito teaches the display is a liquid crystal display (LCD) (see Fajkowski, col. 8, lines 1-16).

Regarding claim 30, the combination of Fajkowski, Suzuki and Ito teaches the processor is capable of displaying the broadcast information on the display (see Fajkowski, fig. 4b).

Regarding claims 31,32, the combination of Fajkowski, Suzuki and Ito teaches the portable device of claim 1, further comprising: transmission electronics coupled to the switch that emit a wireless signal when the switch is activated (see Fajkowski, figs. 2-5; col. 13, line 37 to col. 14, line 54).

Regarding claim 33, since Fajkowski teaches digital communication, it is obvious that the transmission electronics must encode the broadcast information in the wireless signal before emitting (also see entire document of Ito).

Regarding claim 34, the combination of Fajkowski, Suzuki and Ito teaches the broadcast information is a redeemable coupon (see Fajkowski, fig. 5, col. 3, line 50 to col. 4, line 16).

Regarding claim 41, the rejection of claim 24 is herein incorporated. In addition, Ito also teaches downloading, recording and playing of audio files (see Summary of invention; figs. 1, 2, and 14; col. 18, lines 1-45. Also see entire document for clarification.).

3. Claims 35-44,42, 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fajkowski (US 5,905,246) in view of Suzuki et al. (US 4,479,995), Ito (US 6,990,334), and further in view of Kim (US 2006/0229114).

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Regarding claim 35, the combination of Fajkowski, Suzuki, and Ito as mentioned above, teaches the limitations of claim 24 but does not disclose a wireless signal file is an acoustic signal. Kim, in an analogous art, teaches wirelessly downloading audio files from one device to another so that the other device can play the audio files (see claim 58). Therefore, it would have been obvious to one of ordinary skill in the art to introduce the above teaching of Kim to Fajkowski, Suzuki, and Ito for the purpose of providing user with convenient way of obtaining audio files from a close distance.

Still regarding claim 35, Fajkowski, Suzuki, Ito and Kim do not mention that the wireless signal file is an acoustic signal. Ito, in an analogous art, teaches a wireless acoustic device capable of wirelessly receiving music from a server, transforming the musical data so that it would sound better, storing and recording the received music in its memory (see Summary of invention; figs. 1,2, and 14; col. 18, lines 1-45). It would have been obvious to one of ordinary skilled in the art at the time of the in invention was made to provide the above teaching of Ito to Fajkowski and Suzuki for the purpose of improving the output of the music when replay it.

Regarding claims 36, 55, the combination of the combination of Fajkowski, Suzuki, Kim and Ito obviously teaches the acoustic signal is an ultrasound acoustic signal (see Kim, claim 58).

Regarding claim 37, the combination of the combination of Fajkowski, Suzuki, Kim and Ito teaches the wireless signal is radio frequency (RF) signal (see Kim, claim 58).

Regarding claim 38, the combination of the combination of Fajkowski, Suzuki, Kim and Ito teaches the wireless signal is a magnetic signal (see Kim, claim 58).

Regarding claim 39, the combination of the combination of Fajkowski, Suzuki, Kim and Ito teaches the reception electronics includes recording electronics for recording the acoustic signals received by the receiver electronics (see Kim, claim 58).

Regarding claim 40, the combination of the combination of Fajkowski, Suzuki, Kim and Ito teaches transmission electronics coupled to the switch that plays the recorded acoustic signals when the switch is activated (see Kim, claim 58).

Regarding claim 42, the claim includes the limitations as that of claim 40, and therefore is interpreted and rejected for the same reason set forth in the rejection of claim 40.

4. Claims 48-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fajkowski (US 5,905,246) in view of Suzuki et al. (US 4,479,995), Ito (US 6,990,334), Kim (US 2006/0229114), and further in view of Logan et al. (US 7,058,376).

Regarding claim 48, the rejection of claim 24 is herein incorporated. However, Fajkowski and Ito do not mention searching for content on a server, comprising steps:

receiving an audio sample; accessing a database of a plurality of audio files; and comparing the audio sample with a selected plurality of audio files to find a match. This limitation is taught by Logan (see Logan, col. 18, lines 40-53). In this case, since the user can connect to a server, it is obvious that this server can be an Internet server. It would have been obvious to one of ordinary skill in the art to introduce the above teaching of Logan to Fajkowski for the purpose of being able to provide user with access to a server for audio files.

Regarding claims 49, 50, Logan also obviously teaches that when the server delivers the audio file that matched the request audio sample, the delivered audio file is well known to attach a URL.

Regarding claim 51, the combination of Fajkowski, Ito, Kim and Logan teaches method of searching for content on the Internet, comprising steps: sending a request to conduct a search based on a recorded audio sample; and receiving a response based on the request (see Logan, col. 18, lines 40-53). In addition, the request audio sample sent by mobile must obviously be recorded before being sent to the server.

Regarding claim 52, the rejection of claim 51 is herein incorporated.

Regarding claims 53,54, the rejection of claim 49 is herein incorporated.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH D. DAO whose telephone number is (571)272-7851. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MATTHEW ANDERSON can be reached on 571-272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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